

Union Calendar No. 134

105TH CONGRESS  
1ST Session

H. R. 2207

[Report No. 105-237]

A BILL

To amend the Federal Water Pollution Control Act concerning a proposal to construct a deep ocean outfall off the coast of Mayaguez, Puerto Rico.

AUGUST 1, 1997

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

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## IN THE HOUSE OF REPRESENTATIVES

JULY 22, 1997

Mr. ROMERO-BARCELÓ (for himself and Mr. YOUNG of Alaska) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

AUGUST 1, 1997

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italie*]

[For text of introduced bill, see copy of bill as introduced on July 22, 1997]

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## A BILL

To amend the Federal Water Pollution Control Act concerning a proposal to construct a deep ocean outfall off the coast of Mayaguez, Puerto Rico.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2       *This Act may be cited as the “Coastal Pollution Reduc-*  
3 *tion Act of 1997”.*

4 **SEC. 2. MAYAGUEZ, PUERTO RICO.**

5       (a) *FINDINGS.*—Congress makes the following findings:

6           (1) *The existing discharge from the Mayaguez*  
7 *publicly owned treatment works is to the stressed wa-*  
8 *ters of Mayaguez Bay, an area containing severely*  
9 *degraded coral reefs, and relocation of that discharge*  
10 *to unstressed ocean waters could benefit the marine*  
11 *environment.*

12           (2) *The Federal Water Pollution Control Act*  
13 *should, consistent with the environmental goals of the*  
14 *Act, be administered with sufficient flexibility to take*  
15 *into consideration the unique characteristics of Maya-*  
16 *quez, Puerto Rico.*

17           (3) *Some deep ocean areas off the coastline of*  
18 *Mayaguez, Puerto Rico, might be able to receive a*  
19 *less-than-secondary sewage discharge while still main-*  
20 *taining healthy and diverse marine life.*

21           (4) *A properly designed and operated deep ocean*  
22 *outfall off the coast of Mayaguez, Puerto Rico, coupled*  
23 *with other pollution reduction activities in the Maya-*  
24 *quez Watershed could facilitate compliance with the*  
25 *requirements and purposes of the Federal Water Pol-*

1        *lution Control Act without the need for more costly*  
 2        *treatment.*

3            (5) *The owner or operator of the Mayaguez pub-*  
 4        *licly owned treatment works should be afforded an op-*  
 5        *portunity to make the necessary scientific studies and*  
 6        *submit an application proposing use of a deep ocean*  
 7        *outfall for review by the Administrator of the Envi-*  
 8        *ronmental Protection Agency under section 301(h) of*  
 9        *the Federal Water Pollution Control Act.*

10        (b) *APPLICATION FOR SECONDARY TREATMENT WAIV-*  
 11        *ER FOR MAYAGUEZ, PUERTO RICO, DEEP OCEAN*  
 12        *OUTFALL.—Section 301 of the Federal Water Pollution*  
 13        *Control Act (33 U.S.C. 1311) is amended by adding at the*  
 14        *end the following:*

15            “(q) *APPLICATION FOR WAIVER.—*

16            “(1) *STUDY.—In order to be eligible to apply for*  
 17        *a waiver under this section, the owner or operator of*  
 18        *the Mayaguez, Puerto Rico, publicly owned treatment*  
 19        *works shall transmit to the Administrator a report on*  
 20        *the results of a study of the marine environment of*  
 21        *coastal areas in the Mayaguez area to determine the*  
 22        *feasibility of constructing a deep ocean outfall for the*  
 23        *Mayaguez treatment works. In conducting the study,*  
 24        *the owner or operator shall consider variations in the*  
 25        *currents, tidal movement, and other hydrological and*

1 *geological characteristics at any proposed outfall loca-*  
2 *tion. Such study may recommend one or more tech-*  
3 *nically feasible and environmentally acceptable loca-*  
4 *tions for a deep ocean outfall intended to meet the re-*  
5 *quirements of subsection (h). Such study may be ini-*  
6 *tiated, expanded, or continued not later than 3*  
7 *months after the date of the enactment of this sub-*  
8 *section.*

9 “(2) SECTION 301(h) APPLICATION FOR MAYA-  
10 GUEZ, PUERTO RICO.—Notwithstanding subsection  
11 (j)(1)(A), not later than 18 months after the date of  
12 the enactment of this subsection, an application may  
13 be submitted for a modification pursuant to sub-  
14 section (h) of the requirements of subsection (b)(1)(B)  
15 by the owner or operator of the Mayaguez, Puerto  
16 Rico, publicly owned treatment works at a location  
17 recommended in a study conducted pursuant to para-  
18 graph (1). Such application shall not be subject to the  
19 application revision procedures of section 125.59(d) of  
20 title 40, Code of Federal Regulations. No such appli-  
21 cation may be filed unless and until the applicant  
22 has entered into a binding consent decree with the  
23 United States that includes, at a minimum, the fol-  
24 lowing:

1           “(A) A schedule and milestones to ensure  
2           expeditious compliance with the requirements of  
3           subsection (b)(1)(B) in the event the requested  
4           modification is denied, including interim efflu-  
5           ent limits and design activities to be undertaken  
6           while the application is pending.

7           “(B) A schedule and interim milestones to  
8           ensure expeditious compliance with the require-  
9           ments of any modification of subsection  
10          (b)(1)(B) in the event the requested modification  
11          is approved.

12          “(C) A commitment by the applicant to  
13          contribute not less than \$400,000 to the Maya-  
14          guez Watershed Initiative in accordance with  
15          such schedules as may be specified in the consent  
16          decree.

17          “(3) INITIAL DETERMINATION.—On or before the  
18          270th day after the date of submittal of an applica-  
19          tion under paragraph (2) that has been deemed com-  
20          plete by the Administrator, the Administrator shall  
21          issue to the applicant a tentative determination re-  
22          garding the requested modification.

23          “(4) FINAL DETERMINATION.—On or before the  
24          270th day after the date of issuance of the tentative  
25          determination under paragraph (3), the Adminis-

1        *trator shall issue a final determination regarding the*  
 2        *modification.*

3                “(5) *ADDITIONAL CONDITION.—The Adminis-*  
 4        *trator may not grant a modification pursuant to an*  
 5        *application submitted under this subsection unless the*  
 6        *Administrator determines that the new deep water*  
 7        *ocean outfall will use a well-designed and operated*  
 8        *diffuser that discharges into unstressed ocean waters*  
 9        *and is situated so as to avoid discharge (or transport*  
 10       *of discharged pollutants) to coral reefs, other sensitive*  
 11       *marine resources or recreational areas, and shore-*  
 12       *lines.*

13               “(6) *EFFECTIVENESS.—If a modification is*  
 14        *granted pursuant to an application submitted under*  
 15        *this subsection, such modification shall be effective*  
 16        *only if the new deepwater ocean outfall is operational*  
 17        *on or before the date that is 4½ years after the date*  
 18        *of the Administrator’s initial tentative determination*  
 19        *on the application.”.*

20        **SEC. 3. NATIONAL ESTUARY PROGRAM.**

21               (a) *GRANTS FOR COMPREHENSIVE CONSERVATION AND*  
 22        *MANAGEMENT PLANS.—Section 320(g)(2) of the Federal*  
 23        *Water Pollution Control Act (33 U.S.C. 1330(g)(2)) is*  
 24        *amended by inserting “and implementation” after “devel-*  
 25        *opment”.*

1       (b) *AUTHORIZATION OF APPROPRIATIONS.*—Section  
2   320(i) of such Act (33 U.S.C. 1330(i)) is amended by strik-  
3   ing “1987” and all that follows through “1991” and insert-  
4   ing the following: “1987 through 1991, such sums as may  
5   be necessary for fiscal years 1992 through 1997, and  
6   \$20,000,000 for fiscal year 1998”.